IN THE HIGH COURT OF JUDICATURE FOR RAJASTHAN
AT JAIPUR BENCH, JAIPUR

ORDER

SB CIVIL WRIT PETITION NO.5662/1997
The State of Rajasthan & anr. V/s Amar Singh & anr.

DATE OF ORDER : : : 17.1.2007

PRESENT
HON'BLE MR. JUSTICE PREM SHANKER ASOPA

Dr.A.S. Khangarot, Addl. GA, for the petitioners.
Mr.C.P. Sharma, for the respondent No.1.

By this writ petition, the petitioners have challenged the judgment dated 3.1.1997 of the Rajasthan Civil Services Appellate Tribunal (hereinafter to be referred as “the Tribunal”) in Appeal No.346/91 titled as Amar Singh V/s State of Rajasthan.

The facts, in brief, of the case are that the petitioner is an Ex-service man and was given appointment on the post of LDC for 5 years under the Rajasthan Civil Services (Absorption of Ex-servicemen Personnel) Rules, 1959 (hereinafter to be referred as “the Rules of 1959”). After coming into force of the Rajasthan Civil Services (Absorption of Ex-servicemen) Rules, 1988 (hereinafter to be referred as “the Rules of 1988”) when a notice of termination was given to him, the petitioner filed an appeal before the

Tribunal and the Tribunal after examining the entire issue, gave a finding that such time of the petitioner will expire during the Rules of 1988, therefore, this case would be governed by the Rules of 1988 wherein there is no provision of giving appointment on contract basis.

Submission of Additional Government Advocate is that the matter relates to contractual services, therefore, the Tribunal has no jurisdiction. Otherwise also, after expiry of 5 years of the term, they are free to terminate the services.

Submission of Mr.C.P. Sharma, counsel for the respondent is that 5 years term expired after the the Rules of 1988 came into force, therefore, his service condition will be governed by the Rules of 1988 wherein there is no provision for giving the appointment for 5 years or to extend the same in case of Ex-military personnel. Counsel further submits that object of the rules is to rehabilitate the Ex-military personnel and not to give any short duration appointment, which will not amount to rehabilitation in civil services.

I have heard counsel for the parties and gone through the record of the writ petition and further

considered rival submission of the counsel for the parties.

In my view, the respondent was not having any contractual status after coming into force the Rules of 1988 by virtue of proviso to Rule 23, which is as follows:-

> "**23. Repeal & Saving :-** The Rajasthan Civil Services (Absorption of Ex-servicemen Personnel) Rules, 1959 and orders in relation to the matters covered by these rules and enforce immediately before the commencement.
>
> Provided that any action taken under the rules and orders so repealed/superseded shall be deemed to have been taken under the provisions of these rules."

Once the petitioner acquired the statutory status under the Rules, his services will be governed by the relevant statute and would not be treated on contract basis. I am also of the view that object of giving appointment to the Ex-military personnel is to rehabilitate in civil service as per their qualification and not to give short duration appointment as would be evident from the Rules of 1988 where the provision of giving short duration appointment is not there.

In view of above, the impugned order dated 3.1.1997 passed by the Rajasthan Civil Services Appellate Tribunal suffers from no infirmity. The Tribunal has acted within its parameter. No

interference is called for by this Court under Article 226 of the Constitution of India.

The writ petition fails and the same is dismissed.

(P.S. ASOPA) J.

ummed/-